

# Court of Appeals, State of Michigan

## ORDER

In re Conservatorship of Shirley Bittner

Docket No. 320688

LC No. 2013-211281-CA

Mark J. Cavanagh  
Presiding Judge

Pat M. Donofrio

Deborah A. Servitto  
Judges

---

The Court orders that the motion to dismiss is DENIED. We conclude that MCR 7.204(A)(3) must reasonably be considered to apply where service of the judgment or order appealed from is delayed regardless of whether the judgment or order is entered on the trial court's own initiative or at the request of a party. Further, we note that, in light of appellee's failure to provide an opposing affidavit within the 14-day period allowed by MCR 7.204(A)(3) but rather advancing her assertion that the claim of appeal is untimely only after appellant's brief has been filed, even if we concluded that the claim of appeal were untimely, we would exercise our discretion to treat the claim of appeal as a delayed application for leave to appeal and grant the delayed application so that this appeal could proceed.

The motion to affirm is also DENIED because appellee has not established that appellant lacks standing to bring this appeal in her capacity as conservator or that the questions sought to be reviewed are so unsubstantial as to warrant affirmance without argument or formal submission.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

**OCT 10 2014**

Date

Chief Clerk